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August 8, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: Amendment of Section 73.202(b),
FM Table of Allotments
Rose Hill, Trenton, Aurora, and Ocracoke, NC
MM Docket No. 95-88

Dear Mr. Caton:

Transmitted herewith on behalf of Conner Media Corporation, the licensee of WBSY(FM), Rose Hill, North Carolina, is the original plus four copies of its Answer To Woolstone Corporation in the above-referenced proceeding. This submission is respectfully directed to the Chief, Allocations Branch, Policy and Rules Division.

A separate request for leave to file this pleading is being submitted simultaneously herewith under separate cover.

Please direct any questions or correspondence in connection with this matter directly to this office.

Very truly yours,

Ellen S. Mandell
Ellen S. Mandell

Enclosure

cc (w/encl.): See Attached Service List

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	MM Docket No. 95-88
)	
Amendment of Section 73.202(b),)	RM-8641
Table of Allotments,)	RM-8688
FM Broadcast Stations)	RM-8689
(Rose Hill, Trenton, Aurora,)	
and Ocracoke, North Carolina))	

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AUG 08 1997

To: Chief, Allocations Branch
Policy and Rules Division

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ANSWER TO WOOLSTONE CORPORATION

Conner Media Corporation ("CMC"), the licensee of WBSY(FM), Rose Hill, North Carolina, by its attorneys, hereby answers the "Request For Leave To File Response In Response To Supplement To Petition For Reconsideration" ("Response") filed on July 30, 1997 by Woolstone Corporation ("Woolstone"), who has not previously appeared in this proceeding. A separate request for leave to file this Answer is being filed simultaneously herewith under separate cover.

In support hereof, the following is respectfully shown:

1. On July 3, 1997, CMC submitted a "Supplement To Petition For Reconsideration" ("Supplement") and simultaneous motion for leave to file the Supplement ("Motion"), to place on record a letter from the Audio Services Division, dated June 27, 1997 ("Cancellation Letter"), denying the Form 307 application^{1/} of Ocracoke Broadcasters to extend the construction permit for unbuilt FM station WAHL, Channel 224C1, Ocracoke, North

^{1/}FCC File No. BMPH-970113JA.

Carolina^{2/}, cancelling the WAHL construction permit, and deleting the WAHL call sign. As the staff's decision in the instant proceeding relied in part on a finding that the WAHL permit blocked CMC's proposal to allot Channel 221A in lieu of Channel 283A at Aurora, North Carolina^{3/}, the Cancellation Letter is material to the instant proceeding.

2. Woolstone identifies itself as an applicant for Channel 283A, Aurora^{4/}, and a party to a Settlement Agreement contemplating a grant of Woolstone's application if approved by the Commission.

3. At the outset, Woolstone's claim of "interest" in the instant proceeding must be rejected. As discussed below, Woolstone, as a mere applicant for Channel 283 at Aurora, does not have a present, tangible interest in the instant proceeding, and there is thus no basis for its participation.

4. First of all, there is no certainty that Woolstone will ever obtain the permit it applied for in the Aurora licensing matter. Cuero Broadcasters, Inc., 22 FCC 2d 441 (1970). Unless and until the Commission rules that the settlement agreement will serve the public interest and that Woolstone meets all licensing

^{2/}FCC File No. BMPH-950728IC.

^{3/}Rose Hill, Trenton, Aurora, and Ocracoke, North Carolina ("R&O"), 11 FCC Rcd 21223 (Chief, Alloc. Br., 1996).

^{4/}FCC File No. 970227MD.

requirements, Woolstone's pretense of an interest in the Aurora permit is merely speculative^{5/}.

5. Furthermore, even were Woolstone to ultimately acquire the Aurora permit, Woolstone has no basis to claim injury should action favorable to CMC be taken in the instant proceeding. CMC proposed Channel 221A at Aurora as an alternative to Channel 283A, consistent with a Commission policy to attempt to locate alternate channels to accommodate conflicting allotment proposals. See e.g. Willcox, Arizona and Lordsburg, New Mexico, 11 FCC Rcd 22557 (Chief, Alloc. Br., 1996); Rapid City and Lead, South Dakota, 10 FCC Rcd 7715 (Chief, Alloc. Br., 1995). As the Channel 283A and Channel 221A allotments are of the same class, they are deemed "equivalent" under current policy. See e.g. Nikiski, Alaska, MM Docket No. 96-50, DA 97-344 (Chief, Alloc. Br., released February 21, 1997), citing Vera Beach, Florida, 3 FCC Rcd 1049 (Chief, Alloc. Br., 1988), rev. denied 4 FCC Rcd 2184, 2185 (1989).

6. Furthermore, contrary to Woolstone's assertion that a satisfactory site may not be available on Channel 221A, Woolstone's own engineering consultant^{6/} previously demonstrated on behalf of CMC that a large area is available for location of

^{5/}Nor does the pendency of the settlement proposal in the Aurora matter, which is a separate proceeding, place any legal constraint on the instant proceeding, contrary to Woolstone's intimation.

^{6/}See FCC File No. 970227MD.

the Channel 221A facility between the reference point and the Pamlico River^{1/}.

7. Woolstone fails to show why it should be permitted to join the instant proceeding at this late juncture. Woolstone's objection does not respond to the new material submitted by CMC's Supplement, but rather, addresses Woolstone's general objection to the Channel 221A allotment alternative, which has been pending since September 5, 1995. Woolstone's request to be heard nearly two years later cannot be countenanced without severely undermining precepts of administration orderliness.

8. Lastly, Woolstone's claim that it already has expended funds in its pursuit of Channel 283A at Aurora is a purely private economic matter, and does not outweigh the public interest in securing adoption of the most preferable allotment scheme. Livingston, Texas, 3 FCC Rcd 2179 (Chief, Policy & Rules Div., 1988). In any event, Woolstone filed its Aurora application after public notice was given of the proposal to switch the allotment to Channel 221A, and therefore should be deemed to have assumed that risk.

^{1/}Petition For Reconsideration (filed January 17, 1997) at Exhibit 1, Figure 5 (incorporated by reference).

WHEREFORE, the premises considered, it is respectfully submitted that the relief requested in CMC's reconsideration petition should be granted.

Respectfully submitted,

CONNER MEDIA CORPORATION

By Ellen S. Mandell
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Its Attorneys

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August 8, 1997

CERTIFICATE OF SERVICE

The undersigned, a secretary in the law firm of Pepper & Corazzini, L.L.P., does hereby certify that a true copy of the foregoing "ANSWER TO WOOLSTONE CORPORATION" was sent on August 8, 1997, by U.S. first class mail, postage prepaid, to the following:

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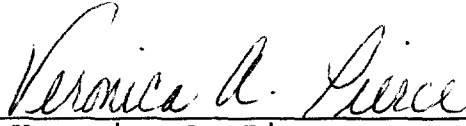
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